# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**RFA No. 106 of 1998 with RFA Nos. 87, 95 and 105 of 1998.**

**Judgement reserved on: 25.7.2007.**

**Date of decision: 11.9.2007.**

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**( For title, please see reverse)**

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***Coram***

**The Hon'ble Mr. Justice Kuldip Singh, Judge.**

***Whether approved for reporting?***[1]

**For the Appellants :**

**( See reverse).**

**For the Respondents :**

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***Kuldip Singh, Judge.***

This judgement shall dispose of four appeals, i.e. RFA Nos. 106, 87, 95 and 105 of 1998, which have arisen out of common award, dated 17.10.1997, passed by the learned District Judge, Chamba, in LAC Nos. 14 of 1993, 16 of 1993, 13 of 1993 and 28 of 1993, respectively.

**2.** The facts in brief are that State of Himachal Pradesh acquired land in Mohal Mouhal, Pargana Triyodi, Tehsil and District Chamba, for Chamera Dam reservoir, for which notification, under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) was published on 15.5.1993. The Land Acquisition Collector (for short, the Collector), announced the award on 17.7.1993. The details of land and

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***Whether the reporters of the local papers may be allowed to see the Judgment?***

amount of compensation awarded by the Collector, as referred in the impugned award, are as follows :-

| Sr. No. | Case No. & title of the petition. | Area of land acquired. | Amount of compensation awarded. |
|---|---|---|---|
| 1. | 14/93 Mohan Lal & ors. Vs. NHPC & Ors. | 5 bighas 13 biswas. | Rs. 47,820/- |
| 2. | 13/1993 Chandu Lal & anr. Vs. NHPC & ors. | 3 bighas 9 biswas. | Rs. 43,530/- |
| 3. | 16/1993, Chaman Singh & Ors. Vs. NHPC & ors. | 9-6-15 bighas. | Rs.93,818/- |
| 4. | 28/1993 Raj Kumar & ors. Vs. NHPC & ors. | 10-11-8 bighas. | Rs. 78,652/- |

The Collector has awarded the compensation at different rates in respect of different kinds of land. The land owners were aggrieved by the award of Collector. They filed Reference Petition Nos. 14 of 1993, 16 of 1993, 13 of 1993 and 28 of 1993. These land references were consolidated by the learned District Judge, vide order, dated 16.6.1995, in LAC No. 14 of 1993 and ultimately decided these reference petitions by a common award, dated 17.10.1997. The learned District Judge has awarded the following enhanced compensation in each case:-

| Sr. No. | Case No. & title of the petition. | Compensation awarded by the Collector. | Awarded by the Court. | Net amount of enhanced compensation. |
|---|---|---|---|---|
| 1. | 14/93 Mohan Lal & ors. Vs. NHPC & Ors. | Rs.47,820 | Rs.71,730/- | Rs. 23,910/- |

| | | | | |
|---|---|---|---|---|
| 2. | 13/1993 Chandu Lal & anr. Vs. NHPC & ors. | Rs. 43,530/- | Rs.65,295/- | Rs.21,765/- |
| 3. | 16/1993, Chaman Singh & Ors. Vs. NHPC & ors. | Rs.93,818/- | Rs.1,40,727/- | Rs.40,909/- |
| 4. | 28/1993 Raj Kumar & ors. Vs. NHPC & ors. | Rs.78,562/- | Rs.1,17,978/- | Rs.39,326/- |

Chamera Hydro Electric Project is in appeal against the impugned award.

**3.** I have heard the learned counsel for the parties and gone through the record. The counsel for the appellant has submitted that learned District Judge has not relied sale deed Ex. PW 3/A, but still enhanced the market value of the acquired land 50% more than what was assessed by the Collector. He has submitted that there is no evidence on record to enhance the market value of the acquired land. The learned counsel for the land owners has submitted that for Chamera Dam Reservoir land was acquired in many Mohals and in many cases reference petitions were filed under Section 18 of the Act for enhancement of the compensation, as assessed by the Collector. The learned District Judge, in many cases of other Mohals, has assessed the market value of different kinds of land 50% more than what was assessed by the Collector. This fact was not disputed by any party before the learned District Judge. Therefore, to keep uniformity, the learned District Judge, in this bunch of four cases, has enhanced market value 50% more than what was assessed by the collector. The amount awarded is not large amount, keeping in view the land acquired

in each case. It has been submitted that sale deed Ex. PW 3/A, has been wrongly ignored by the learned District Judge for assessing the market value of the acquired land.

**4.** PW 1 Mohan Lal land owner has stated that his land was acquired for the project. The acquired land was on the road side. The adjacent Mohals are Mohals Parnvi and Chandi. In Parnvi Mohal, the rates of land are in lakhs per bigha. The acquired land was under cultivation and two fasli. There were about 50 lemon trees aged about 7-8 years and 13-14 Shisham trees on the acquired land. In cross-examination, he has stated that Mohinder Singh has sold some land in Parnvi about 2-3 years ago. PW 2 Dharam Singh is another land owner, who has stated that his land was acquired for the project, which was situated in village Mohal Mouhal. Parnvi Mohal is adjacent to Mohal Mouhal. In Parnvi Mohal uncultivable land is at the rate of rupees 1½ lacks. The acquired land was on road head. PW 3 Mohinder Kumar son of Gian Chand has stated that he sold land in Parnvi Mohal to Mohinder Singh son of Jeet Singh, vide sale deed Ex. PW 3/A dated 16.7.1992, for a consideration of Rs. 8000/-. The land, which he had sold, is situated 500 meters above the acquired land. The counsel for the petitioner tendered in evidence Ex. PX, copy of jamabandi.

**5.** RW 1 Kehar Singh, Kanungo, Chamera Project, has placed on record, demarcation report Ex. R-1, under Section 8 of the Act. He has also placed on record, Ex. R-2 another demarcation report, under Section 8 of the Act. In cross-examination, he has stated that he did not carry out the demarcation on the spot. The counsel for

respondent No.1 has placed on record statements Exts. R-3, R-4, R-5, R-6 and R-7. The State did not produce any evidence as per statement of District Attorney recorded separately.

**6.** The learned counsel for the land owners has submitted that the learned District Judge has erred in ignoring sale deed, Ex. PW 3/A, for assessing the market value of the acquired land. He has submitted that it is not the case of the State or acquiring agency that during relevant period some sales took place in Mohal Mouhal. It has been established on record that Parnvi Mohal is adjacent to Mohal Mouhal. The sale deed Ex. PW 3/A is of Parnvi Mohal. PW 3 Mohinder Kumar has stated that one biswa land was sold by him, vide sale deed, Ex. PW 3/A, for a consideration of Rs. 8000/- and this land was situated 500 meters above the acquired land. This statement of PW 3 has not been disputed by the State or acquiring agency. Thus, it has been established that land sold, vide sale deed, Ex. PW 3/A, was very near to the acquired land. In absence of sale of land in Mohal Mouhal, the sale deed Ex. PW 3/A, of adjacent Mohal Parnvi, can be relied for assessing the market value of the acquired land.

**7.** In ***ONGC Ltd. versus Sendhabhai Vastram Patel & Ors., (2005) 6 SCC 454,*** the Hon'ble Supreme Court in Paras-11 and 15 has held as follows:-

> "While determining the amount of compensation payable in respect of the lands acquired by the State, indisputably, the market value therefor has to be ascertained. Although, there exist different modes for arriving at the market value for the land acquired; the best method, however, as is well known would be the amount which a willing purchaser of the land would pay to the

> owner of the land as may be evidenced by the deeds of sale. In the absence of any direct evidence on the said point, the court may take recourse to other methods viz. judgments and awards passed in respect of acquisition of lands made in the same village and / or neighbouring villages. Such a judgment and award in the absence of any other evidence like deed of sale, report of expert and other relevant evidence, however, would have only evidentiary value."

In Para-15, it has further been observed as follows:-

> "Instances of sale in respect of the similar land situated in the same village and / or neighbouring villages should have been taken as guiding factors by the Reference Judge as also by the High Court. In the absence of any better evidence, the Reference Judge as also the High Court could have made addition in the sale prices for the land as evidenced by the said deeds of sale."

In the above cited case the Hon'ble Supreme Court has held that for assessing the market value of acquired land, sale transaction of adjoining village, can be taken into consideration. The learned District Judge has erred in not relying the sale deed Ex. PW 3/A on the simple ground that the sale transaction of sale deed Ex. PW 3/A is not of the same Mohal, where the land, in question, was acquired.

**8.** As per sale deed Ex. PW 3/A, the market value comes to Rs. 1,60,000/- per bigha. No doubt, sale deed Ex. PW 3/A is of small area, but it still can be taken into consideration for assessing the market value of the acquired land after applying suitable deduction. In ***Ravinder Narain and another vs. Union of India ( 2003) 4 Supreme***

***Court Cases 481, the Hon'ble Supreme Court*** in para-7 has held as follows:-

> "It cannot, however, be laid down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the rate. For example, where there is no other material, it may in appropriate cases be open to the adjudicating court to make comparison of the prices paid for small plots of land. However, in such cases necessary deductions/adjustments have to be made while determining the prices*".*

In the present case, the Collector has assessed Barani-1 at the rate of Rs. 12,900/-, Barani-II at the rate of Rs. 11,000/- and Bagicha Barani Phaldar at the rate of Rs. 14,000/- per bigha. The learned District Judge has allowed 50% increase in the market value of the acquired land. The market value as per sale deed Ex. PW 3/A comes to Rs. 1,60,000/- per bigha and even if deduction at the rate of 70% (which is very high) is made from this rate, still the market value of the acquired land comes to Rs. 48,000/- per bigha, which is above the market value assessed by the learned District Judge of the acquired land, but the land owners are not in appeal.

**9.** The perusal of the impugned award shows that learned counsel representing the parties before the learned District Judge have submitted that in many cases the learned District Judge has assessed the market value 50% more than what was assessed by the Collector. In view of this stand of the parties, the learned District Judge in the present case assessed the market value of the acquired land 50% more than what was assessed by the Collector.

**10.** As noticed above, the market value of the acquired land assessed by the learned District Judge is much less in comparison to market value of the acquired land on the basis of sale deed Ex. PW 3/A and after making deduction, as stated above. The learned counsel for the appellants has failed to make out any case for interference.

**11.** The result of the above discussion, all the appeals being RFA Nos. 106, 87, 95 and 105 of 1998, are dismissed and award dated 17.10.1997, passed by the learned District Judge, Chamba, in each case is upheld. No costs.

**September 11 , 2007.** **( Kuldip Singh )**
**(***Hem)* **Judge.**

1. **RFA No. 106 of 1998**
   **Chamera Hydro Electric Project ….. Appellant.**

   **Vs.**

   **Mohan Lal & ors. ….. Respondents.**

   **For the appellant:** Mr. Rajnish Maniktala, Advocate, vice Mr. K.D.Shreedhar, Advocate.

   **For the respondents:** Mr. R.K.Sharma, Advocate, for respondents No. 1 to 4.
   Mr. M.S.Chandel, Advocate General with Mr. M.L.Chauhan, Addl. Advocate General, for respondents No. 5 and 6.

2. **RFA No. 87 of 1998**
   **Chamera Hydro Electric Project ….. Appellant.**

   **Vs.**

   **Chaman Singh & ors. ….. Respondents.**

   **For the appellant:** Mr. Rajnish Maniktala, Advocate, vice Mr. K.D.Shreedhar, Advocate.

   **For the respondents:** None for respondents No. 1 to 9.
   Mr. M.S.Chandel, Advocate General with Mr. M.L.Chauhan, Addl. Advocate General, for respondents No. 11 & 12.

3. **RFA No. 95 of 1998**
   **Chamera Hydro Electric Project ….. Appellant.**

   **Vs.**

   **Chandu Lal & ors. ….. Respondents.**

   **For the appellant:** Mr. Rajnish Maniktala, Advocate, vice Mr. K.D.Shreedhar, Advocate.

   **For the respondents:** None for respondents No. 1 & 2.
   Mr. M.S.Chandel, Advocate General with Mr. M.L.Chauhan, Addl. Advocate General, for respondents No. 3 and 4.

4. **RFA No. 105 of 1998**
   **Chamera Hydro Electric Project ….. Appellant.**

   **Vs.**

   **Raj Kumar & ors. ….. Respondents.**

   **For the appellant:** Mr. Rajnish Maniktala, Advocate, vice Mr. K.D.Shreedhar, Advocate.

   **For the respondents:** Mr. M.S.Chandel, Advocate General with Mr. M.L.Chauhan, Addl. Advocate General, for respondents No. 17 & 18.
   None for other respondents.